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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,563	06/07/2001	Marc F. Hayes JR.	12587-007001	7804

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EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/876,563

Applicant(s)

HAYES ET AL.

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 51 - 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I in Paper No. 5 is acknowledged. The traversal is on the ground(s) that distinctness cannot be shown between Groups I and II. This is found persuasive, and Claims 1 – 50 will be examined on their merits.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 4, 10, 13, 23, 26, 41, 46 and 47, the phrase "types" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). For examination purposes, the word types will be treated as generic word. With regard to Claims 13 and 26, they are also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claims 13 and 26, the word CMAS "engine " is a relative word, which renders the claims indefinite. The word CMAS " engine " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 13 and 39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For example in Claim 1, the applicant has not recited the use any technology.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 – 5, 7 – 11, 13 – 16, 21 – 29, 34 – 43 and 45 - 49 rejected under 35 U.S.C. 102(b) as being unpatentable over “Oraclemobile.com spin-off to focus on**

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**wir less"; CENT News.com; February 22, 2000; Stephanie Miles (her after referred to as Oracle).**

Regarding Claim 1 and related Claim 7, Oracle teaches a method comprising - enrolling a customer in a messaging and alert service (Page 1, Para 2 and Page 3, Para 1); storing a list of businesses selected by the customer (Page 3, Para 3); storing a customer contact hierarchy list (Page 3, Para 3); and contacting the customer according to the customer contact hierarchy when at least one of the selected businesses has an alert for the customer (Page 4, Para 1).

Regarding Claim 2 and related Claims 8, 21, 34, 43 and 49, Oracle teaches a method wherein a customer enrolls by providing information to at least one of a participating business website, a customer messaging and alert service website, and to a customer services representative (Page 4, Para 1).

Regarding Claim 3 and related Claims 9, 14, 22, 27, 35, 42 and 48, Oracle teaches a method wherein the customer contact hierarchy list includes at least one of telephone information, instant messaging information, e-mail information, pager information and wireless device information (Page 5, Para 3 and 4).

Regarding Claim 4 and related Claims 10, 23 and 36, Oracle teaches a method further comprising storing a list of customer preferences that include at least one of selected

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businesses to contact, selected businesses authorized to send alert messages, when the customer may be contacted and types of messages that require confirmation (Page 4, Para 1).

Regarding Claim 5 and related Claim 11, Oracle teaches a method further comprising permitting the customer to contact any of the selected businesses (Page 1, Para 15).

Regarding Claim 13 and related Claim 26, Oracle teaches a method comprising - providing a customer messaging and alert service (CMAS) for use by customers (Page 1, Para 4); permitting a customer to enroll in the CMAS and to authorize at least one business, selected from a group of affiliated businesses, to contact the customer (Page 4, Para 1); permitting the customer to specify a contact hierarchy list of communication types (Page 5, Para 2); monitoring the chosen businesses with a CMAS engine (Page 4, Para 1); and alerting the customer when an authorized business has a message by attempting to contact the customer according to that customer's hierarchy list (Page 4, Para 1).

Regarding Claim 15 and related Claim 28, Oracle teaches a method, further comprising contacting a business that sent an alert when the customer acknowledges receipt of the alert (Page 4, Para 1).

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Regarding Claim 16 and related Claim 29, Oracle teaches method further comprising permitting the customer to contact any of the affiliated businesses (Page 2, Para 8).

Regarding Claim 24 and related Claim 37, Oracle teaches a method further comprising generating reports for use by the affiliated businesses (Page 2, Para 8) and wherein the reports include at least one of completed transaction summaries (Page 2, Para 8), peak number of transactions by channel, transaction failure by channel, transaction frequency by channel, and customer intent.

Regarding Claim 25 and relate Claim 38, Oracle teaches a method wherein the reports include at least one of completed transaction summaries, peak number of transactions by channel, transaction frequency by channel, and customer intent (Page 2, Para 8)

Regarding Claim 39 and relate Claim 45, Oracle teaches a method comprising - enrolling in a customer messaging and alert service that includes a plurality of businesses (Page 1, Para 2 and Page 3, Para 1); forming a query for a business (Page 4, Para 1); receiving a response from the business (Page 4, Para 1); and receiving alert messages from at least one business (Page 4, Para 1).

Regarding Claim 40 and related Claim 46, Oracle teaches a method of enrolling includes at least one of selecting those businesses that are authorized for responding, to queries. selecting those businesses authorized to send alert messages, generating a

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contact hierarchy list, and specifying preferences (Page 4, Para 1) and wherein the list of preferences includes at least one of when communications can be initiated, and the types of messages that require confirmation (Page 4, Para 1 and 4).

Regarding Claim 41 and related Claim 47, Oracle teaches a method wherein the list of preferences includes at least one of when communications can be initiated, and the types of messages that are require confirmation (Page 4, Para 1 and 4).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 6, 12, 17 – 20, 30 – 33, 44 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Oraclemobile.com spin-off to focus on wireless” in view of “Convergys to market Neuromedia’s web sales and support software”; Telecomworld; Coventry; April 18, 2000 (hereafter referred to as Convergys).**

Oracle teaches a method and article comprising - enrolling a customer in a messaging and alert service; storing a list of businesses selected by the customer; storing a customer contact hierarchy list; and contacting the customer according to the customer



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contact hierarchy when at least one of the selected businesses has an alert for the customer. Moreover, Oracle teaches a method and article comprising - providing a customer messaging and alert service (CMAS) for use by customers; permitting a customer to enroll in the CMAS and to authorize at least one business, selected from a group of affiliated businesses, to contact the customer; permitting the customer to specify a contact hierarchy list of communication types; monitoring the chosen businesses with a CMAS engine; and alerting the customer when an authorized business has a message by attempting to contact the customer according to that customer's hierarchy list.

Oracle does not disclose and teach a method and article wherein the customer submits a natural language query that is interpreted by the messaging and alert service.

However regarding Claim 6 and related Claims 12, 17, 30, 44 and 50, Convergys teaches a method and article wherein the customer submits a natural language query that is interpreted by the messaging and alert service (Page 1, Para 2 and 3)

Regarding Claims 18 and related Claim 31, the recitation that "wherein CMAS utilizes at least one dataset of customer intent data to interpret the natural language query", such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from

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the other recitation “wherein the customer submits a natural language query that is interpreted by the messaging and alert service” already disclosed by Convergys.

Regarding Claims 19 and related Claim 32, the recitation that “ wherein the customer intent data is enterprise specific”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patenatably distinguish the instant invention from the other recitation “wherein the customer submits a natural language query that is interpreted by the messaging and alert service” already disclosed by Convergys.

Regarding Claims 20 and related Claim 33, the recitation that “tracking the natural language queries”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patenatably distinguish the instant invention from the other recitation “wherein the customer submits a natural language query that is interpreted by the messaging and alert service” already disclosed by Convergys.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and article of Oracle with the method and article of Convergys to have provided the capability to enable the customer to submit a natural language query that is interpreted by a messaging and alert service – in order to provide

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a more intuitive, ease to use customer interface which can increase usage of the service and thereby increase revenue from additional transactions.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is Lefeber et al (US 2002/0046299 A1) which addresses a method and system for customer messaging and alerting as well as Abreu (US 2001/0056359 A1) which is an alerting system incorporating Natural Language. In addition, "OAG selects EnvoyWorldWide to Help Business Customers Stay Ahead of Last-Minute Flight Delays and Cancellations"; NEWS; March 21, 2001 web page; captured via the Wayback Machine which address another customer service and alerting offering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is 703.305.8230. The examiner can normally be reached on M-F 7:30am - 4:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703.308.1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7658 for regular communications and 703.308.3687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.1113.

RER

January 21, 2003

  
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